

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

APRIL CORTEZ,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:09-cv-725
)	
)	
WAL-MART STORES, INC.,)	
)	
Defendant.)	
_____)	

**DEFENDANT’S NOTICE REGARDING AUTHORITY CITED IN ITS
MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS COMPLAINT**

On January 7, 2010, Defendant Wal-Mart Stores, Inc. (“Wal-Mart”), by counsel, submitted its Motion to Dismiss Plaintiff’s Complaint and Memorandum in Support of its Motion to Dismiss. (Doc. Nos. 10 and 11). In its memorandum, Wal-Mart cited and relied in part on a case decided by the Second Circuit – *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 549 F.3d 137 (2nd Cir.) *cert. granted* (2008) – and requested a stay of this matter pending the United States Supreme Court’s decision. On March 31, 2010, the Supreme Court issued a split 4-1-4 decision reversing the Second Circuit. *Shady Grove Orthopedic Assocs., P.A. v. Allstate, Ins. Co.*, 2010 U.S. LEXIS 2929 (U.S. March 31, 2010) (“*Shady Grove*”).

In *Shady Grove*, the Supreme Court allowed a diversity jurisdiction federal court class action to proceed under Federal Rule of Civil Procedure 23 despite that a New York state statute would bar the class in state court. Accordingly, Wal-Mart hereby withdraws its request for a stay. The parties’ agreed-to stay to mediate the case remains in effect (Doc. No. 12), and this case has been transferred to a United States Magistrate Judge for

mediation. (Doc. No. 14). This Notice is intended, in no other way, to affect Wal-Mart's Motion to Dismiss or prayer for relief in the same.

Respectfully submitted,

WAL-MART STORES, INC.

/s/ James F. Neale

By Counsel

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CERTIFICATE OF SERVICE

I certify that on April 5, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send notification of such filing (NEF) to the following counsel:

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